

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1680 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BIPINCHANDRA ALIAS VIPINCHANDRA PRANJIVANDAS THAKKAR

Versus

THE MUNICIPAL CORPORATION, VADODARA & OTHERS

Appearance:

MR SB VAKIL for Petitioner

MR PRANAV G DESAI for Respondent No. 1 & 2

None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/08/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner filed this writ petition before this Court and prayed to quash and set aside the order bearing outward no.4495/82-83 made by respondent no.2 on 22-2-1983, A copy of which has been filed on record as annexure 'A'. Under this order, on the complaint of respondent no.3, the name of the petitioner was deleted from the Town Planning

record with respect to Final Plot No.421 of the Town Planning Scheme no.5.

2. One of the contention made by learned counsel for the petitioner is that the order annexure 'A' dated 22-2-1983 has been passed by respondent no.2 without giving notice or an opportunity of hearing to the petitioner. It is a case where under the impugned order the civil rights of the petitioner are infringed, and as such, the counsel for the petitioner contended that before making such an order which causes prejudice to the right, title and interest in the Final Plot No.421 of Town Planning Scheme no.5, of the petitioner, it was incumbent upon the respondent no.2 to give the notice and opportunity of hearing to the petitioner.

3. The counsel for the respondent no.2 has not controverted this fact and he fairly conceded that the notice or an opportunity of hearing was not given to the petitioner before making of the aforesaid order. The facts are admitted, and as such, the order annexure 'A' cannot be allowed to stand as it has been made in the violation of the principles of natural justice. Order accordingly.

4. This Special Civil Application is allowed and the order annexure 'A' bearing outward no.4495/82-83 dated 22-2-1983 is set aside. However, the setting aside of the order annexure 'A' will not come in the way of the respondent no.2 to pass an appropriate order after giving notice and an opportunity of hearing to the petitioner. Rule is made absolute in the aforesaid terms with no order as to costs.